

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

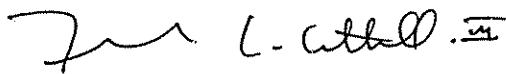
---

IN RE: '318 PATENT INFRINGEMENT LITIGATION	}) C.A. No. 05-356 (KAJ) ) (consolidated)
--	---

---

**DEFENDANT ALPHAPHARM PTY., LTD.'S RULE 12(C) MOTION  
AND JOINDER IN MOTION FOR JUDGMENT ON THE PLEADINGS  
DISMISSING PLAINTIFFS' WILLFUL INFRINGEMENT CLAIMS OR, IN  
THE ALTERNATIVE, TO BIFURCATE AND STAY DISCOVERY ON SUCH CLAIMS**

Defendant Alphapharm Pty., Ltd., by and through its undersigned counsel, hereby moves this Court pursuant to Fed. R. Civ. P. 12(c) for an Order substantially in the form attached hereto dismissing Plaintiffs' willful infringement claims or, in the alternative, to bifurcate and stay discovery on such claims. Defendant Alphapharm Pty., Ltd. joins in Defendant Mylan's Rule 12(c) Motion for Judgment on the Pleadings Dismissing Plaintiffs' Willful Infringement Claim or, in the Alternative, to Bifurcate and Stay Discovery on Such Claim (D.I. 57) and incorporates by reference herein the Motion (D.I. 57), Memorandum (D.I. 58) and Compendium (D.I. 59) in support of the Motion filed by Defendant Mylan. The issues raised in both motions are identical.



OF COUNSEL:  
Alan H. Bernstein  
Robert S. Silver  
Mona Gupta  
William J. Castillo  
Caesar, Rivise, Bernstein,  
Cohen & Pokotilow, Ltd.  
1635 Market Street, 12<sup>th</sup> Floor  
Philadelphia, PA 19103  
Telephone: (215) 567-2010  
Facsimile: (215) 741-1142

Frederick L. Cottrell, III (#2555)  
cottrell@rlf.com  
Anne Shea Gaza (#4093)  
gaza@rlf.com  
Richards, Layton & Finger, P.A.  
One Rodney Square  
920 N. King Street  
Wilmington, Delaware 19801  
Telephone: (302) 651-7700  
Facsimile: (302) 651-7701  
Attorneys for Defendant Alphapharm Pty., Ltd.

Dated: December 28, 2005

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

---

IN RE: '318 PATENT INFRINGEMENT LITIGATION ) C.A. No. 05-356 (KAJ)  
  ) (consolidated)

---

**ORDER**

The Court having considered Defendant Alphapharm Pty., Ltd.'s Rule 12(c) Motion for Judgment on the Pleadings Dismissing Plaintiffs' Willful Infringement Claims or, in the Alternative, to Bifurcate and Stay Discovery on Such Claims and the parties' arguments in support and opposition thereof,

IT IS HEREBY ORDERED this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ that the Motion is GRANTED.

---

United States District Court Judge

UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE

CERTIFICATE OF SERVICE

I hereby certify that on December 28, 2005, I electronically filed the foregoing with the Clerk of Court using CM/ECF which will send notification of such filing to the following and which has also been served as noted:

**By E-mail and Hand Delivery**

John G. Day (*jday@ashby-geddes.com*)  
Steven J. Balick (*sbalick@ashby-geddes.com*)  
**Ashby & Geddes**  
222 Delaware Ave., 17 Fl.  
P.O. Box 1150  
Wilmington, DE 19899

I further certify that on December 28, 2005, the foregoing document was sent to the following non-registered participants in the manner indicated::

**By E-mail and Federal Express**

George F. Pappas (*gpappas@cov.com*)  
Roderick R. McKelvie (*mckelvie@cov.com*)  
Christopher N. Sipes (*csipes@cov.com*)  
Jeffrey B. Elikan (*jelikan@cov.com*)  
Laura H. McNeill (*lmcneill@cov.com*)  
**Covington & Burling**  
1201 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-2401  
Phone: (202) 662-6000  
Fax: (202) 662-6291

**By E-mail**

George C. Lombardi (*glombardi@winston.com*)  
Taras A. Gracey (*tgracey@winston.com*)  
Lynn M. Ulrich (*lulrich@winston.com*)  
Brian L. Franklin (*bfranklin@winston.com*)  
**Winston & Strawn LLP**  
35 West Wacker Dr.  
Chicago, IL 60601

John C. Phillips, Jr. (*jcp@pgslaw.com*)  
Brian E. Farnan (*bef@pgslaw.com*)  
**Phillips, Goldman & Spence, P.A.**  
1200 N. Broom St.  
Wilmington, DE 19806

Stuart D. Sender ([ssender@budd-lerner.com](mailto:ssender@budd-lerner.com))  
**Budd Lamer, P.C.**  
150 John F. Kennedy Parkway  
Short Hills, New Jersey 07078-2703

William A. Rakoczy ([wrakoczy@rmmslegal.com](mailto:wrakoczy@rmmslegal.com))  
Christine J. Siwik ([cswik@rmmslegal.com](mailto:cswik@rmmslegal.com))  
Amy D. Brody ([abrody@rmmslegal.com](mailto:abrody@rmmslegal.com))  
**Rakoczy Molino Mazzochi Siwik LLP**  
6 W. Hubbard St., Suite 500  
Chicago, IL 60610

Barbara S. Wahl ([wahl.barbara@arentfox.com](mailto:wahl.barbara@arentfox.com))  
Richard Berman ([berman.richard@arentfox.com](mailto:berman.richard@arentfox.com))  
D. Jacques Smith ([smith.jacques@arentfox.com](mailto:smith.jacques@arentfox.com))  
Janine A. Carlan ([carlan.janine@arentfox.com](mailto:carlan.janine@arentfox.com))  
John K. Hsu ([hsu.john@arentfox.com](mailto:hsu.john@arentfox.com))  
**Arent Fox PLLC**  
1050 Connecticut Ave., N.W.  
Washington, D.C. 20036-5339

Robert J. Gunther, Jr. ([robert.gunther@lw.com](mailto:robert.gunther@lw.com))  
James P. Barabas ([james.barabas@lw.com](mailto:james.barabas@lw.com))  
**Latham & Watkins LLP**  
885 Third Ave., Suite 1000  
New York, N.Y. 10022-4802

Daniel F. Attridge, P.C. ([dattridge@kirkland.com](mailto:dattridge@kirkland.com))  
Edward C. Donovan ([edonovan@kirkland.com](mailto:edonovan@kirkland.com))  
Karen M. Robinson ([krobinson@kirkland.com](mailto:krobinson@kirkland.com))  
Corey J. Manley ([cmanley@kirkland.com](mailto:cmanley@kirkland.com))  
**Kirkland & Ellis LLP**  
655 Fifteenth Street, N.W. - Suite 1200  
Washington, D.C. 20005-5793

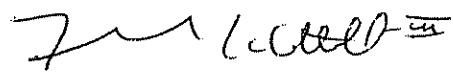
Richard Horwitz  
([rhorwitz@potteranderson.com](mailto:rhorwitz@potteranderson.com))  
**Potter Anderson & Corroon LLP**  
1313 N. Market St., Hercules Plaza, 6<sup>th</sup> Floor  
P.O. Box 951  
Wilmington, DE 19899-0951

Mary B. Matterer  
([mmatterer@morrisjames.com](mailto:mmatterer@morrisjames.com))  
**Morris James Hitchens & Williams LLP**  
222 Delaware Ave., 10<sup>th</sup> Floor  
P.O. Box 2306  
Wilmington, DE 19899-2306

Philip A. Rovner  
([provner@potteranderson.com](mailto:provner@potteranderson.com))  
**Potter Anderson & Corroon LLP**  
1313 N. Market Street, Hercules Plaza, 6<sup>th</sup>  
Floor  
P.O. Box 951  
Wilmington, DE 19899-0951

Richard D. Kirk ([rkirk@bayardfirm.com](mailto:rkirk@bayardfirm.com))  
**The Bayard Firm**  
222 Delaware Ave. - Suite 900  
P.O. Box 25130  
Wilmington, DE 19899

Josy W. Ingersoll ([jingersoll@ycst.com](mailto:jingersoll@ycst.com))  
John W. Shaw ([jshaw@ycst.com](mailto:jshaw@ycst.com))  
Adam W. Poff ([apoff@ycst.com](mailto:apoff@ycst.com))  
**Young Conaway Stargatt & Taylor LLP**  
The Brandywine Building  
1000 West St., 17th Floor  
P.O. Box 391  
Wilmington, DE 19899-0391

  
Frederick L. Cottrell, III (#2555)  
Cottrell@rlf.com